

BEFORE THE BOARD OF PHARMACY  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of ARM 24.174.401 fee schedule ) ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On January 14, 2008, at 3:00 p.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Pharmacy (board) no later than 5:00 p.m., on January 9, 2008, to advise us of the nature of the accommodation that you need. Please contact Ronald J. Klein, Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2371; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail [dlibsdp@mt.gov](mailto:dlibsdp@mt.gov).

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.174.401 FEE SCHEDULE

(1) through (4) remain the same.

(5) Certified pharmacy annual renewal fee ~~200~~ 250

(6) through (13) remain the same.

(14) Wholesale drug distributor license ~~300~~ 400

(15) Annual wholesale drug distributor renewal ~~175~~ 400

(16) remains the same.

(17) Out-of-state mail service pharmacy/telepharmacy renewal ~~200~~ 400

(18) through (21) remain the same.

AUTH: 37-1-134, 37-7-201, 50-32-314, MCA

IMP: 37-1-134, 37-7-201, 37-7-302, 37-7-321, 37-7-604, 37-7-605, 37-7-703, 50-32-314, MCA

REASON: The board determined it is reasonable and necessary to amend this rule to keep board fees commensurate with associated costs as required by 37-1-134, MCA. Board expenditures totaled \$479,631 in fiscal year (FY) 2005, \$483,187 in FY 2006, and \$643,720 in FY 2007. The board's appropriation for FY 2008 is \$622,164 and for FY 2009 is \$645,022. The board's executive director position was part time in FY 2005, the position was vacant for six months in FY 2006, and was vacant for over five months in FY 2007. The position is now full time, and this will result in an

increase in expenses. In addition, the board also employs one full time pharmacy inspector who travels throughout the state of Montana. Both of these positions are filled with registered pharmacists. The pay rate of pharmacists in Montana and throughout the nation has been steadily increasing, and it is necessary for the board to pay competitive salaries. The board also employs one full time program manager and one part time (20 hours per week) licensing specialist. In addition, the board's cash position has deteriorated in recent years from \$344,843 at the end of FY 2000 to a projected \$24,530 at the end of FY 2009. This leaves little cash available to pay for unforeseen expenses, such as litigation.

The board estimates that the fee changes will affect approximately 1089 persons and will result in an estimated \$171,225 cumulative increase in annual revenue as follows:

Pharmacy renewal: approximately 317 licensees affected by the \$50 increase for an estimated annual revenue increase of \$15,850.

Pharmacy renewal late: approximately 18 licensees affected by the \$50 increase for an estimated annual revenue increase of \$900.

Wholesale distributor original: approximately 65 applicants affected by the \$100 increase for an estimated annual revenue increase of \$6500.

Wholesale distributor renewal: approximately 379 licensees affected by the \$225 increase for an estimated annual revenue increase of \$85,275.

Wholesale distributor renewal late: approximately 28 licensees affected by the \$225 increase for an estimated annual revenue increase of \$6300.

Mail service pharmacy renewal: approximately 256 licensees affected by the \$200 increase for an estimated annual revenue increase of \$51,200.

Mail service pharmacy renewal late: approximately 26 licensees affected by the \$200 increase for an estimated annual revenue increase of \$5200.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305 or by e-mail to [dlibsdpba@mt.gov](mailto:dlibsdpba@mt.gov), and must be received no later than 5:00 p.m., January 22, 2008.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at [pharmacy.mt.gov](http://pharmacy.mt.gov). The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Pharmacy maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to

have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all Board of Pharmacy administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdp@mt.gov](mailto:dlibsdp@mt.gov), or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Mike Fanning, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHARMACY  
JAMES CLOUD, CPhT, PRESIDENT

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 10, 2007.